

REMARKS

Applicants thank the Examiner for the Final Office Action of February 23, 2010. This Amendment is in full response thereto. Thus, Applicants respectfully request continued examination and allowance of the application.

Claims 30-33, 35, 41-44, 46 and 50 are pending in this application.

Entry of After-Final Amendment

Claims 30, 32, and 35 have been amended to address the rejections and objections raised by the examiner related to clarity and to also correct an inadvertent recitation of a preferred range. As these amendments only remove issues for appeal and require merely cursory examination by the examiner, their entry is respectfully requested.

Double Patenting

Claims 30, 32, 33, 35, 41-44 and 50 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 2-24 and 35 of co-pending Application No.: 11/049,586 (as filed on 02/05/2009). Applicants/Assignee representative has contemporaneously submitted a Terminal Disclaimer disclaiming the terminal portion of any patent that may be granted upon co-pending, commonly-owned Application No. 11/049,586. As such, withdrawal of the rejection is requested.

Claim Objections

Claims 35 is objected to because it depends from cancelled claim 34. Claim 35 has been amended to depend from claim 30. As such, the objection may be withdrawn.

Claims 41-44 are objected to because they depend from cancelled claim 40. Claims 41-44 have been canceled thereby mooted the objection.

Claim Rejections Under 35 U.S.C. § 112:

Claims 30-33, 35, 41-44, 46 and 50 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended the claim to recite the subject matter in proper Markush form and thus request withdrawal of the rejection.

First Claim Rejection Under 35 U.S.C. § 103:

Claims 30-33, 35, 41-44, 46 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USPN 5,624,542 (Shen) in view of WO 2002/058830 (Chaput). Applicants respectfully traverse because the combination of Shen and Chaput teachings suggested by the does not disclose each and every claim limitation. The examiner relies upon Chaput for its putative disclosure of magnesium oxide. Chaput does not disclose MgO. Rather, Chaput discloses a fluorite crystal of formula $(M_{\alpha}O_{\beta})_{1-x}(R_{\gamma}O_{\delta})_x$ in which the M may be Mg (¶s 51, 48). Thus, one possibility is a fluorite crystal of formula $(Mg_{\alpha}O_{\beta})_{1-x}(R_{\gamma}O_{\delta})_x$. This is not a disclosure of the compound magnesium oxide as required by the claims. Thus, Applicants request withdrawal of the rejection.

Second Claim Rejection Under 35 U.S.C. § 103:

Claims 30-33, 35, 41-44, 46 and 50 are rejected under 35 U.S.C. § 103(a) as being unpatentable over WO 00/59613 (Mackay) in view of WO 2002/058830 (Chaput). Applicants respectfully traverse because the combination of Mackay and Chaput teachings suggested by the does not disclose each and every claim limitation. The examiner relies upon Chaput for its putative disclosure of magnesium oxide. As explained above, Chaput does not disclose MgO. Thus, Applicants request withdrawal of the rejection.

CONCLUSION

Accordingly, it is believed that the present application now stands in condition for allowance. Early notice to this effect is earnestly solicited. Should the examiner believe a telephone call would expedite the prosecution of the application, he/she is invited to call the undersigned attorney at the number listed below.

A Terminal Disclaimer has been contemporaneously submitted with this response along with the associated fee. Otherwise, it is believed that no other fee is due at this time. If that belief is incorrect, please debit deposit account number 01-1375. Also, the Commissioner is authorized to credit any overpayment to deposit account number 01-1375.

Respectfully submitted,

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